

**Before the  
U.S. Department of Commerce, National Telecommunications Information  
Administration & U.S. Department of Agriculture, Rural Utilities Service  
Washington, D.C. 20230**

In the Matter of	)	
	)	
Joint Request for Information	)	
American Recovery and Reinvestment	)	Docket No. 090309298-9299-01
Act of 2009 Broadband Initiatives	)	
	)	

**COMMENTS OF HARRIS CORPORATION**

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## EXECUTIVE SUMMARY

The complete nationwide deployment and adoption of broadband is one of the most difficult challenges the United States faces today. The ARRA broadband grant provisions have the opportunity to provide enhanced opportunities for all Americans, especially those in unserved and underserved areas. To achieve the goals set forth by the ARRA, both the NTIA and RUS must establish flexible and minimally intrusive program rules and requirements. Establishing such a framework will provide for the most efficient use of grant funds by leveraging the assets of a diverse group of entities including non-profit organizations, public safety, educational institutions, health facilities, local, state and federal government, and private companies. To facilitate rapid distribution of grant funds the NTIA and RUS must establish grant program rules and requirements in a timely and cohesive fashion.

The following is a summary of Harris Corporation's main points:

- The overarching objectives of the ARRA and the specific purposes of the broadband provisions must be guiding principles when establishing the NTIA and RUS broadband grant programs. **(Section II.A)**
- Private entities should be eligible to apply and receive grant funding if the application meets one or more of the purposes set forth by the ARRA broadband provisions. **(Section III.A)**
- Selection criteria must be flexible to encourage innovative broadband deployment proposals. **(Section IV.A)**
- Selection criteria must be technology neutral in order to most efficiently utilize ARRA funds. **(Section IV.B)**
- The NTIA should only adopt the non-discrimination principles established by the FCC's Broadband Policy Statement. **(Section V.A)**
- The definition of broadband should be defined in accordance with the FCC's current definition. **(Section V.B)**
- The NTIA should refrain from implementing burdensome contractual interconnection requirements. **(Section V.C)**

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Harris Corporation (“Harris”) submits these remarks in response to the joint request for information (“RFI”) issued by the National Telecommunication and Information Administration (“NTIA”) and the Rural Utilities Service (“RUS”)<sup>1</sup> regarding the implementation of the broadband provisions of the *American Recovery and Reinvestment Act of 2009* (“ARRA”).<sup>2</sup> Both the NTIA Broadband Technologies Opportunities Program (“BTOP”) and RUS broadband grant program have the opportunity to provide enhanced educational, medical, public safety and occupational opportunities for all Americans, particularly those in unserved and underserved areas. Harris believes that the NTIA and RUS broadband grant programs can be successfully implemented if both agencies take into consideration the purposes of the ARRA, permit private sector eligibility, establish flexible and technology neutral selection criteria, and impose minimally intrusive regulatory burdens on grant recipients with regards to the definition of broadband, non-discrimination requirements and interconnection obligations.

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<sup>1</sup> *Joint Request for Information and Notice of Public Meetings*, 74 Fed. Reg. 10,716-10721 (Dep’t of Commerce Mar. 12, 2009) (“*NTIA-RUS RFI*”).

<sup>2</sup> Pub. L. No. 111-5, 123 Stat. 115 (February 17, 2009) (“*Recovery Act*”).

## **I. Corporate Background**

Harris is an international communications and information technology company serving government and commercial markets in more than 150 countries. Harris has an extensive background in coordinating and partnering with public and private entities on a wide range of telecommunications projects. For instance, as the leading provider of interoperable solutions for defense communications, Harris now offers first responders full-spectrum multiband products for joint public safety operations on the local, state, and federal levels: the Harris Unity XG-100 and RF-1033M. In fact, Harris has made agreements to provide land mobile radios to the U.S. Department of the Interior, U.S. Department of Agriculture, and the FBI Training Academy. Harris is also collaborating with Monroe County, NY, to field test new interoperable public safety communications technologies as the equipment is developed.

As a leading telecommunications provider Harris has experience in coordinating with public and private entities to construct next generation communications networks. Starting in 2002 Harris became the prime contractor on the 15-year Federal Aviation Administration (“FAA”) Telecommunications Infrastructure (“FTI”) program to integrate and modernize the U.S. air traffic control system and infrastructure. FTI is a modern, secure, and efficient network that is providing voice, data, and radar communications to connect 50,000 FAA employees at more than 4,000 FAA sites across the country (including Alaska, Hawaii and Puerto Rico). The FTI program has helped to reduce overall FAA operating costs while enhancing network efficiency, reliability, security and service. In support of FTI network deployment, Harris has established new and leveraged existing private sector relationships with both long haul and local telecommunications providers. In February 2008 Harris successfully completed the transition of the seven FAA legacy networks to the new FTI network.

Harris is utilizing its knowledge of telecommunications systems and networks to develop innovative telecommunications applications. For example, Harris is leading the U.S. Department of Health and Human Services' Nationwide Health Information Network (“NHIN”) CONNECT Gateway project. The NHIN will enable federal healthcare agencies including the Military Health Systems, Department of Veterans Affairs, Social Security Administration, Indian Health Service, National Cancer Institute, Centers for Disease Control, and private healthcare service providers to exchange patient information seamlessly with security and privacy, improving the quality of care, and reducing costs. Harris' CONNECT solution creates secure, interoperable information exchange between federal agencies and the private healthcare sector, and puts patients in control of how their information is shared.

Harris stands ready to provide innovative ideas to utilize grant funds by working with both public and private entities to deploy broadband networks and infrastructure nationwide.

## **II. Purpose of the Grant Program**

### **A. The Overarching Objectives of the ARRA and the Specific Purposes of the Broadband Provisions Must Be the Guiding Principles When Establishing the NTIA and RUS Grant Programs.<sup>3</sup>**

When structuring broadband grant program rules and requirements it is vital that both the NTIA and RUS take into account the broad purposes of the ARRA as a whole<sup>4</sup> and the specific

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<sup>3</sup> NTIA question 1(b) asks: “Should applicants be encouraged to address more than one purpose?” RUS question 1 asks: “What are the most effective ways RUS could offer broadband funds to ensure that rural residents that lack access to broadband will receive it?” *NTIA-RUS RFI*, *supra* note 1, at 10717, 10720.

<sup>4</sup> “The purposes of this act include the following (1) to preserve and create jobs and promote economic recovery; (2) to assist the most impacted by the recession; (3) to provide investments needed to increase economic efficiency by spurring technological advances in science and health; (4) to invest in transportation, environmental protection and other infrastructure that will provide long-term economic benefits; and (5) to stabilize State and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.” *Recovery Act*, *supra* note 2, at 116-117.

ARRA broadband provisions.<sup>5</sup> In particular, to ensure projects are completed within the two-year timeframe the NTIA must establish clear program rules and distribute grant funds in a timely manner. The NTIA and RUS must work with grant recipients to structure reasonable timetables or milestones for completing projects based on individual proposals.

To meet the goals set forth by Congress in the ARRA, it is important that the NTIA and RUS implement flexible and minimally intrusive program rules and requirements. In unserved and underserved areas a regulatory light touch is vital to ensuring broadband build-out and service sustainability. Such a framework will encourage program participation amongst diverse entities, spur economic investment, and encourage technological innovation in broadband deployment, infrastructure development, and adoption. The NTIA and RUS must seize this opportunity to encourage investment and innovation in broadband, not stifle it.

### **III. Eligible Grant Recipients**

#### **A. Private Entities Should Be Eligible to Apply and Receive Grant Funding if the Application Meets One or More of the Purposes Set Forth by the ARRA Broadband Provisions.<sup>6</sup>**

For the ARRA broadband grant programs to be successful both the NTIA and RUS must encourage grant applications amongst a diverse group of entities including non-profit organizations, public safety institutions, local, state and federal government, community anchor

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<sup>5</sup> The purposes of BTOP is to “(1) provide access to broadband service in unserved and underserved areas; (2) provide improved access to broadband in underserved areas; (3) provide broadband awareness, education, training, equipment, access and support [to community anchor institutions]; (4) improve access to and use of broadband service by public safety agencies; and (5) stimulate the demand for broadband, economic growth and job creation.” *Id.*, at 513-514; “The Conferees intend that the NTIA has discretion in selecting the grant recipients that will best achieve the broad objectives of the program.” H.R. Rep. No 111-116, at 774 (2009) (Conf. Rep.) (“ARRA Conference Report”).

<sup>6</sup> NTIA question 3 asks: “What standard should NTIA apply to determine whether it is in the public interest that entities other than those described in Section 6001(e)(1)(A) and (B) should be eligible for grant awards?” RUS question 1 asks: “What are the most effective ways RUS could offer broadband funds to ensure that rural residents that lack access to broadband will receive it?” RUS question 1 requests suggestions “as to the best ways to promote leveraging of Recovery Act funding with private investment that ensures project viability and future sustainability.” *NTIA-RUS RFI*, *supra* note 3, at 10717-10718, 10720.

institutions, and private companies.<sup>7</sup> Encouraging widespread participation in the grant programs is something Congress specifically recognized as vital to the success of the ARRA broadband provisions.<sup>8</sup> To ensure the most effective use of broadband grant funds the NTIA and RUS must allow private companies to apply directly or if mutually beneficial in partnership with public entities for grant funds. The list of private entities eligible to apply for grant funds should be as inclusive as possible. The only threshold requirement for determining private sector eligibility should be whether the applicant is attempting to achieve one of the statutory purposes outlined by Congress in the ARRA broadband grant provisions. Establishing such a standard for determining private sector eligibility would be de facto in the public interest.

The NTIA and RUS should note that effectively deploying broadband to rural areas is too burdensome for the public sector alone. Private entities must be allowed to participate in the grant process so they can partner with public institutions. Where practical and when mutually beneficial public/private partnerships should be encouraged across all levels of industry and government—local, state, and federal. The federal government, in particular federal agencies, should not be overlooked as viable public partners. Public/private partnerships will leverage public and private assets to the fullest and ensure the quickest and most efficient deployment of broadband in unserved and underserved areas.

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<sup>7</sup> “The conference substitute creates a new broad definition of entities that are eligible to receive grants.” *ARRA Conference Report*, *supra* note 5, at 775.

<sup>8</sup> In regards to the BTOP program the Conference Report stated that “it is the intent of the conferees that, consistent with the public interest and purposes of the section, as many entities as possible be eligible to apply for a competitive grant including wireless carriers, wireline carriers, backhaul providers, satellite carriers, public-private partnerships, and tower companies.” *Id.*

## **IV. Establishing Selection Criteria for Grant Awards**

### **A. Selection Criteria Must Be Flexible to Encourage Innovative Broadband Deployment Proposals.<sup>9</sup>**

The private sector must be given significant flexibility to determine the most efficient way to deploy broadband, especially in unserved and underserved areas. Therefore, applications must be evaluated on their own merit and not be forced to prescribe to a rigid set of selection criteria, such as through a score sheet or checklist. The nature of broadband deployment in unserved and underserved areas requires a diverse range of business models to address the specific needs of individual communities. The NTIA and RUS must recognize one size does not fit all when it comes to broadband deployment plans. The NTIA and RUS have the expertise to evaluate broadband grant proposals on a case by case basis, not in a vacuum. Evaluating each application individually will ensure the best and most sustainable plans for encouraging broadband deployment are chosen.

### **B. Selection Criteria Must Be Technology Neutral In Order to Most Efficiently Utilize ARRA Funds.<sup>10</sup>**

Any broadband grant program rules or requirements established by the NTIA or RUS must be technology neutral. As recognized by Congress, no one type of broadband technology can be given preference over another.<sup>11</sup> A technology neutral approach is vital to attracting a

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<sup>9</sup> NTIA question 4(a) asks: “What factors should NTIA consider in establishing selection criteria for grant awards?” RUS question 2 asks: “In what ways can RUS and NTIA best align their Recovery Act broadband activities to make the most efficient and effective use of the Recovery Act broadband funds?” *NTIA-RUS RFI*, *supra* note 6, at 10718, 10720.

<sup>10</sup> NTIA question 4(g) asks: “Should the fact that different technologies can provide different service characteristics, such as speed and use of dedicated or shared links, be considered given the statutes direction that, to the extent practical, the purposes of the statute should be promoted in a technologically neutral fashion?” RUS question 2 asks “In what ways can RUS and NTIA best align their Recovery Act broadband activities to make the most efficient and effective use of the Recovery Act broadband funds?” *Id.*

<sup>11</sup> “The conferees also intend that the NTIA select grant recipients that it judges will best meet the broadband access needs of the area to be served, whether by a wireless provider, a wireline provider or any other provider offering to construct last-mile, middle-mile or long haul facilities.” *ARRA Conference Report*, *supra* note 8, at 774.



diverse group of entities to provide unique and innovative ideas for meeting the challenges of broadband deployment in unserved and underserved areas. Failure by the NTIA or RUS to take a technology neutral approach will result in the broadband grant programs failure to achieve the goals set forth by the ARRA. A technology neutral approach will ensure that the most advanced broadband services are deployed and the most efficient use of ARRA grant funds.

## V. Definitions

### A. The NTIA Should Only Adopt the Non-Discrimination Principles Established by the FCC's Broadband Policy Statement.<sup>12</sup>

The four principles set forth by the FCC's Broadband Policy Statement,<sup>13</sup> coupled with the FCC's authority to investigate allegations of inappropriate network discrimination on a case-by-case basis provides sufficient safeguards for protecting consumers.<sup>14</sup> The NTIA and RUS

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<sup>12</sup> NTIA question 13(c) asks: "How should the BTOP define the nondiscrimination and network interconnection obligations that will be contractual conditions of grants awarded under Section 6001?" *NTIA-RUS RFI*, *supra* note 10, at 10719.

<sup>13</sup> "To ensure that broadband networks are widely deployed, open, affordable, and accessible to all consumers, the Commission adopts the following principles: (1) To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to access the lawful Internet content of their choice; (2) To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement; (3) To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to connect their choice of legal devices that do not harm the network; (4) To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to competition among network providers, application and service providers, and content providers." *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review—Review of Computer III and ONA Safeguards and Requirements; Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling; Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, CC Docket Nos. 02-33, 01-337, 98-10, 95-20, GN Docket No 00-185, CS Docket No. 02-52, *Policy Statement*, 20 FCC Rcd. 14986, FCC 05-151, ¶ 4 (2005) ("*Broadband Policy Statement*").

<sup>14</sup> See *Formal Complaint of Free Press and Public Knowledge Against Comcast Corporation for Secretly Degrading Peer-to-Peer Applications; Broadband Industry Practices Petition of Free Press et al. for Declaratory Ruling that Degrading an Internet Application Violates the FCC's Internet Policy Statement and Does Not Meet an Exception for Reasonable Network Management*, File No. EB-08-IH-1518, WC Docket No. 07-52, FCC 08-183 (2008) (finding that Comcast's network management practices, based on the facts at hand, violate the Commission's Broadband Policy Statement).

broadband grant programs must provide the economic incentive for private companies to deploy broadband in areas where such an incentive has never previously existed. To promote this end, the NTIA and RUS must offer private companies' significant flexibility to reasonably manage their networks, something additional non-discrimination obligations will make difficult. Implementing contractual non-discrimination requirements beyond those adopted by the FCC's Broadband Policy Statement will frustrate the goals of BTOP<sup>15</sup> by delaying the distribution of grant funds, deterring private participation in BTOP, and discouraging overall economic investment in broadband. Adding non-discrimination requirements beyond the FCC's Broadband Policy Statement to the RUS broadband grant program will have similar results.

**B. The Definition of Broadband Should Be Defined In Accordance With the FCC's Current Definition.<sup>16</sup>**

When establishing a definition of broadband for purposes of BTOP the NTIA should adopt the FCC's current regulatory definition.<sup>17</sup> Although FCC Form 477<sup>18</sup> classifies upload and download speeds above 768 kbps as "broadband" and upload and download speeds of 200 kbps

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<sup>15</sup> "Funding is provided to award competitive grants that accelerate broadband deployment in unserved and underserved areas and to strategic institutions that are likely to create jobs or provide significant public benefits." *ARRA Conference Report*, *supra* note 11, at 417.

<sup>16</sup> NTIA question 13(b) asks: "How should BTOP define broadband service?" RUS question 3(b) asks: "What does high speed broadband service mean?" RUS question 2 asks: "In what ways can RUS and NTIA best align their Recovery Act broadband activities to make the most efficient and effective use of the Recovery Act broadband funds?" *NTIA-RUS RFI*, *supra* note 12, at 10719, 10720.

<sup>17</sup> The FCC defines broadband as "services and facilities with an upstream (customer-to-provider) and downstream (provider-to-customer) transmission speed of more than 200 kbps." *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, GN Docket No. 07-45, *Fifth Report*, FCC 08-88, 23 FCC Rcd. 9615, ¶¶ 2, 4 (2008); "As discussed in our Fifth Report, pursuant to Section 706 of the Telecommunications Act of 1996, we find it appropriate to continue to evaluate broadband deployment by monitoring the migration of customers and services to higher speed tiers by continuing to collect information beginning at the 200 kbps threshold that is appropriately considered first generation." *Development of Nationwide Broadband Data to evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 08-89, 23 FCC Rcd. 9691, ¶ 20 (2008) ("*Data Collection Order and FNPRM*").

<sup>18</sup> *Data Collection Order and FNPRM*, *supra* note 17, at ¶ 21 n. 66.

to 768 kbps as “first generation data,” the Commission should encourage the NTIA not to disregard grant applicants proposing to offer “first generation data.”<sup>19</sup> As the FCC has recognized, upload and download speeds of 200 kbps to 768 kbps “remain valuable to consumers because of their always-on nature and their capacity for more basic Internet services.”<sup>20</sup> The value of 200 kbps connection speeds is especially high in unserved and underserved areas where it has proven difficult to provide sustainable high-speed broadband service. It is vital that BTOP provides the opportunity for all Americans to receive some level of broadband coverage.

Proposed service speeds should only be one of a number of factor considered when analyzing grant applications.<sup>21</sup> While the speed tiers established under FCC Form 477<sup>22</sup> should not be dispositive, Harris recognizes that the speed tiers may be a valuable tool to the NTIA when evaluating the overall strength of a broadband grant application. Adopting the FCC’s definition of broadband, as outlined above, will prevent delay in distributing grant funds and provide the necessary flexibility for applicants to address the specific needs of individual communities, something Congress in the ARRA Conference Report recognized.<sup>23</sup>

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<sup>19</sup> See *Id.*, at ¶¶ 19-22 (discussing the FCC’s decision to maintain 200 kbps as its threshold under FCC Form 477 for measuring broadband deployment).

<sup>20</sup> *Id.*, at ¶ 20 n.65.

<sup>21</sup> “While the House bill had included specific speed thresholds that an applicant must have met to be eligible for a grant the substitute request only that the NTIA consider the speeds that would be delivered to consumers in awarding grants.” *ARRA Conference Report*, *supra* note 15, at 775.

<sup>22</sup> Form 477 establishes eight required broadband reporting speed tiers: (1) greater than 200 kbps, but less than 768 kbps; (2) equal to or greater than 768 kbps, but less than 1.5 mbps; (3) equal to or greater than 1.5 mbps, but less than 3 mbps; (4) equal to or greater than 3 mbps, but less than 6 mbps; (5) equal to or greater than 6 mbps, but less than 10 mbps; (6) equal to or greater than 10 mbps, but less than 25 mbps; (7) equal to or greater than 25 mbps, but less than 100 mbps; and (8) equal to or greater than 100 mbps. *Data Collection Order and FNPRM*, *supra* note 20, at ¶ 20.

<sup>23</sup> “The Conferees are mindful that a specific speed threshold could have unintended result of thwarting broadband deployment in rural areas.” *Id.*

**C. The NTIA Should Refrain from Implementing Burdensome Contractual Interconnection Requirements.<sup>24</sup>**

To encourage private sector participation in BTOP the NTIA must refrain from implementing interconnection requirements as contractual requirements of being awarded BTOP funds. Intrusive interconnection obligations will impede broadband deployment in unserved and underserved areas. The private sector must determine for itself the most efficient way to utilize broadband grant money and establish a sustainable business model. Now is not the time for the NTIA or RUS to place burdensome interconnection requirements on grant recipients that make providing broadband service in difficult to reach locations more complicated.

**VI. Conclusion**

For the foregoing reasons Harris Corporation encourages the NTIA and RUS to adopt the policies proposed in these comments when implementing each agencies' respective broadband grant program.

Respectfully submitted,

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<sup>24</sup> NTIA question 13(c) asks: "How should the BTOP define the nondiscrimination and network interconnection obligations that will be contractual conditions of grants awarded under Section 6001?" *NTIA-RUS RFI, supra* note 16, at 10719.